

HOUSE COMMITTEE AMENDMENTS

2019 Regular Session

Amendments proposed by House Committee on Ways and Means to Reengrossed Senate Bill No. 198 by Senator Peacock

1 AMENDMENT NO. 1

2 On page 1, line 2, after "1408(D)(1)" and before "and (E)," insert "and (2)(a)"

3 AMENDMENT NO. 2

4 On page 1, line 3, after "and (F)," and before "1574.1(E)," insert "1483, 1484(C),"

5 AMENDMENT NO. 3

6 On page 1, at the beginning of line 4, insert "1481(B) and (C),"

7 AMENDMENT NO. 4

8 On page 1, line 9, after "accounts;" and before "to provide" insert the following:

9 "to authorize the Board of Tax Appeals to use escrow account funds for certain
10 purposes; to provide relative to the satisfaction of claims against the state; to
11 authorize a simplified claim against the state procedure under certain circumstances;"

12 AMENDMENT NO. 5

13 On page 1, line 13, after "1408(D)(1)" and before "and (E)," insert "and (2)(a)"

14 AMENDMENT NO. 6

15 On page 1, at the beginning of line 14, after "(F)," and before "1574.1(E)," insert "1483,
16 1484(C),"

17 AMENDMENT NO. 7

18 On page 1, line 15, after "1436(B)(3)," and before "1561.1(C)," insert "1481(B) and (C)"

19 AMENDMENT NO. 8

20 On page 3, between lines 24 and 25, insert the following:

21 "(2)(a) In addition to all other remedies provided for in this Section, the
22 failure to obey any order or subpoena issued under the authority of this Chapter shall
23 constitute contempt of court, and may be punished by the board or its local tax judge
24 in accordance with the provisions of **Section 2 of Chapter 4 of Title 1 of Book I of**
25 **the Louisiana Code of Civil Procedure, R.S. 13:4611(1), or any other laws**
26 **applicable to** and ~~all other applicable laws~~ for contempt of court. Any action
27 finding anyone in contempt pursuant to this Paragraph shall be subject to an appeal
28 ~~by trial *de novo* in the Nineteenth Judicial District Court~~ **or supervisory writ as**
29 **provided for in R.S. 47:1434 through 1436.**"

1 AMENDMENT NO. 9

2 On page 5, between lines 14 and 15, insert the following:

3 "(3) The board may utilize the escrow account to facilitate the operation
4 of an online filing system, including the deposit of advance costs from
5 subscribers and related payment of amounts collected related to that service.
6 Notwithstanding any provision of this Section to the contrary, the board may
7 utilize any interest earned on the account to facilitate an online filing system."

8 AMENDMENT NO. 10

9 On page 5, between line 15 and 16, insert the following:

10 "§1481. Authority of board to receive and consider claims against the state

11 A. Any person who has a claim against the State of Louisiana for money
12 erroneously paid into the State Treasury, or for any other claim, may present such
13 claim to the Board of Tax Appeals, in such form and together with such proofs as the
14 Board of Tax Appeals may require by its rules and regulations. The board shall duly
15 examine into the justice, merits and correctness of each such claim presented to it,
16 and shall officially pass thereon.

17 B. For purposes of this Part, except when the context clearly indicates
18 otherwise, the terms defined in this Section shall have the following meanings:

19 (1) "Current collections" shall first mean any current collections of the
20 particular tax at issue, and then current collections of any taxes collected
21 pursuant to Chapters 1, 2, Chapter 2-A, Chapter 2-B, or 5 of Subtitle II of Title
22 47 of the Louisiana Revised Statutes of 1950, as amended.

23 (2) "Department" shall mean the Department of Revenue.

24 (3) "Secretary" shall mean the secretary of the Department of Revenue.

25 C.(1) Whenever a tax statute or regulation administered by the
26 department has been declared unconstitutional or unenforceable in a final,
27 non-appealable decision of the board or any court of competent jurisdiction,
28 and a taxpayer has not challenged the constitutionality or enforceability of the
29 tax statute or regulation through the payment under protest procedure set forth
30 in R.S. 47:1576, the taxpayer may seek to recover the amounts paid under the
31 statute or regulation by filing a claim as set forth in this Subsection.

32 (2) A claim filed pursuant to this Subsection shall be submitted to the
33 department on forms prescribed by the secretary, setting forth the amount of
34 the claim. The filing of the claim with the department shall be deemed a filing
35 with the board for purposes of this Part as of the date the claim is filed with the
36 secretary.

37 (3) Once reviewed for correctness, all claims submitted to the secretary
38 shall be forwarded to the board for its examination of the justice, merits, and
39 correctness of each claim. If the secretary's review of any claim remains
40 pending for more than ninety days, the secretary shall forward the claim to the
41 board within sixty days of the written request of the claimant.

42 (4) Nothing in this Subsection shall restrict or limit any other remedy
43 available to the claimant under any other applicable law.

44 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 §1483. Payment of approved claims

2 A.(1) If the claim is approved and it should be an amount not exceeding ~~one~~
3 twenty thousand dollars, the ~~chairman of the~~ Board of Tax Appeals shall issue a
4 ~~warrant upon the State Treasurer, for the amount for which the same is approved,~~
5 judgment for payment of an approved claim, stating in said warrant the judgment
6 the amount, purposes, and reasons for ~~which the same is drawn~~ the judgment. If
7 said claim shall amount to more than ~~one~~ twenty thousand dollars; and is approved
8 by ~~said Board of Tax Appeals,~~ the board, the chairman, giving all the facts and
9 circumstances in connection therewith, shall report the ~~same~~ judgment to the ~~next~~
10 ~~session of the~~ legislature for its consideration as provided for in this Part.
11 Provided that where such claim accrues to more than one person, as for example, the
12 heirs or legatees of another, and the claim is determined by the board to be properly
13 due and owing, payment thereof to the party or parties asserting the same before the
14 board shall not be denied because of the failure or refusal of others to join in and
15 assert such claim, but in such event only the portion due such claimant or claimants
16 shall be paid and then only if the amount to be paid to each such claimant does not
17 exceed ~~one~~ twenty thousand dollars.

18 B.(1) Any judgment issued by the board for the payment of an approved
19 claim when the amount approved does not exceed twenty thousand dollars shall
20 be paid out of current collections without interest following submission to the
21 secretary. The total amount of judgments paid in a fiscal year from current
22 collections pursuant to this Subsection shall not exceed two million dollars,
23 unless a higher amount for that fiscal year is approved by the Commissioner of
24 Administration and the Joint Legislative Committee on the Budget.

25 (2) The payment of judgments for approved claims shall be paid by the
26 secretary in the order in which the claims were approved by the board. If the
27 total amount of claims approved by the board and authorized for payment
28 under this Section exceeds the amount authorized pursuant to Paragraph (1) of
29 this Subsection in a fiscal year, the payment of any excess claims shall be issued
30 in the subsequent year in the same order of priority and with priority over any
31 claims subsequently approved by the board.

32 C. When the board approves a claim against the state and the amount
33 of the claim exceeds twenty thousand dollars but does not exceed two hundred
34 fifty thousand dollars, the claim shall be submitted to the litigation
35 subcommittee of the Joint Legislative Committee on the Budget for review prior
36 to the next regular session of the legislature. If the claim is approved by the
37 litigation subcommittee, the approved claim shall be paid out of current
38 collections without interest following submission of the authorization to the
39 secretary.

40 D. When the board has approved a claim against the state for erroneous
41 payments of state taxes and the claim is not paid in full pursuant to this Section,
42 is not paid pursuant to any provision of R.S. 47:1484, and is not fully
43 appropriated during the next regular session of the legislature following the
44 date of the board's approval, the secretary and the claimant may agree that the
45 payment of the claim may be taken as a nonrefundable offset against the
46 particular tax at issue. If this offset exceeds the amount of taxes due for the
47 claimant, any unused amount may be carried forward against subsequent tax
48 liability for the same tax for a period not to exceed five years. The provisions
49 of this Subsection shall not apply when the amount of the claim exceeds one
50 million dollars.

51 §1484. Satisfaction of claims

52 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 C.(1) When the Board of Tax Appeals has approved a claim against the state
 2 for erroneous payments of corporate franchise tax **based on the decision in**
 3 **UTELCOM, Inc. v. Bridges,** and **an amount to pay** the claim is not paid
 4 **appropriated** pursuant to Subsection A of this Section ~~within one year of~~ **during**
 5 **the next regular session of the legislature following** the date the board's approval
 6 of the claim becomes final, the secretary of the ~~Department of Revenue~~ and the
 7 claimant may agree that the payment of the claim may be taken as an offset against
 8 **any** state corporate income or franchise tax liability of the claimant **or one or more**
 9 **of the claimant's affiliates, as provided in Paragraph (3) of this Subsection.**

10 (2) Up to ~~twenty-five~~ **fifty** percent of the total claim approved by the board
 11 shall be allowed as ~~an~~ **a nonrefundable** offset in ~~each of the four taxable years~~ **the**
 12 **two taxable periods** immediately following the agreement of the parties to the
 13 offset. For each taxable year **period** in which an offset authorized by this Subsection
 14 is taken, the amount of the offset shall not ~~exceed the amount of the state corporate~~
 15 ~~income or franchise tax liability against which the offset is taken after application of~~
 16 ~~all~~ **be treated as a credit for purposes of R.S. 47:1675 and shall be applied**
 17 **against state** income or corporation franchise tax **liability before application of**
 18 **any other** credits **of any kind or nature whatsoever, including but not limited to**
 19 **credits described in R.S. 47:1675.** The secretary shall authorize an extension of
 20 time not to exceed two years within which an offset may be taken if payment of the
 21 amount of the total claim approved is not satisfied after ~~four~~ **two** years.

22 (3) A ~~party~~ **claimant** for which the secretary has authorized an offset
 23 pursuant to this Subsection may transfer **all or any portion of** the offset to a **any**
 24 member of the ~~party's~~ affiliated group ~~included in the~~ **of entities that includes the**
 25 **claimant and that files a** federal consolidated return filed under the Internal
 26 Revenue Code. Any **portion of an** offset transferred to a member of the federal
 27 consolidated group **that includes the claimant** shall be allowed only as an offset
 28 against the same taxes and shall be subject to the same limitations provided in
 29 Paragraph (2) of this Subsection. The transfer shall be in accordance with the
 30 procedures set forth by rule or on forms or instructions provided by the secretary.

31 (4) No offset authorized pursuant to this Subsection may be taken prior to
 32 July 1, 2017.

33 * * *

34 AMENDMENT NO. 11

35 On page 6, line 14, after "of" and before "resulting" delete "26 U.S.C. 6501" and insert "26
 36 U.S.C. 6501(e)"